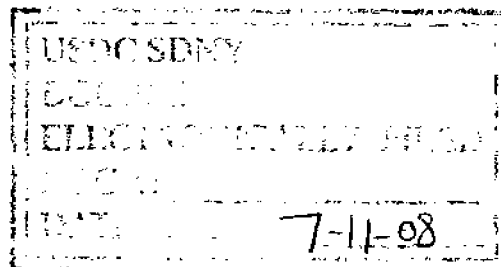


*K. C. ENAN*

Norman C. Kleinberg  
Theodore V. H. Mayer  
William J. Beausoleil  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, New York 10004-1482  
(212) 837-6000

*Attorneys for Defendant Merck & Co., Inc.*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE:

Fosamax Products Liability Litigation

1:06-md-1789 (JFK)

-----X  
*This Document Relates to:*

LeCarol Flewellen

v. Merck & Co., Inc.

Case No: 1:08-cv-01876-JFK  
-----X

**STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff

LeCarol Flewellen and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

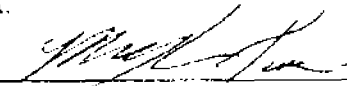
1. This case, having been resolved upon the agreement of Plaintiff to voluntarily dismiss without prejudice her claims against Defendant and the agreement of Defendant not to seek from Plaintiff its fees and costs, is hereby dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii).

2. Plaintiff further agrees to re-file any suit based on any similar claims related to Fosamax against Merck, any of Merck's subsidiaries, agents, distributors, employees, sales representatives, or against any pharmacy in this Court, without joining any party whose joinder would defeat diversity pursuant to 28 U.S.C. § 1332.

3. Each party is to bear its own costs and attorneys' fees

LEVIN, PAPANTONIO, THOMAS,  
MITCHELL, ESCHSNER & PROCTOR,  
P.A.

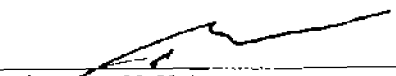
By

  
Meghan M. Tans, Esq.  
316 S. Baylen Street, Sixth Floor  
Pensacola, FL 32502  
(850) 435-7000  
MTans@levinlaw.com

*Attorneys for Plaintiff*

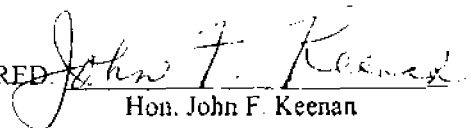
HUGHES HUBBARD & REED LLP

By

  
Theodore V. H. Mayer  
One Battery Park Plaza  
New York, New York 10004  
(212) 837-6888  
mayer@hugheshubbard.com

*Attorneys for Defendant Merck & Co., Inc.*

SO ORDERED

  
Hon. John F. Keenan

1